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SUBJECT: BRAZIL: GOB THREAT TO SUSPEND IPR OF US CITIZENS

1. (SBU) Summary: Otavio Brandelli, Chief of the Division of Intellectual Property Rights at the Ministry of External Relations told EconOff on August 27 that the media exaggerated some elements of an August 24 report announcing GoB plans to "cross-retaliate" over a WTO finding against U.S. cotton subsidies by suspending the intellectual property rights of U.S. citizens and businesses. He noted that the GoB has not yet asked the WTO for authorization to "cross-retaliate" in this manner and was only laying the legal groundwork to retaliate should the WTO authorize such action - which he thought would be over a year away if it did occur. Characterizing legislation being introduced by Deputy Paulo Teixeira (PT-SP - Workers Party, Sao Paulo State) as too broad, he said GIPI, the GoB inter-ministerial council, planned to form a subcommittee to draft alternative legislation. Separately, Sao Paulo industry contacts told Sao Paulo EconOff that they were not aware of the specifics of this proposal, but considered the issue significant and were not wholly unsympathetic to the GoB position. End Summary.

2. (SBU) According to Brandelli, the GoB is still studying the possibility of "cross-retaliation" and has not reached a decision. He said that a 2005 GoB request to the WTO for "cross-retaliation" against U.S. IPR interests in connection with its cotton case only applied to patents. A new WTO request would be broader. New legislation will be introduced by Deputy Paulo Teixeira (PT-SP - Workers Party, Sao Paulo State) the week of August 27 to provide a legal framework for "cross-retaliation" covering all IPR areas, should such action be authorized by the WTO and the GoB decide to retaliate. Brandelli said he felt the language in the legislation the Deputy plans to introduce should be more precise. To that end, he said the GoB inter-ministerial council (GIPI) was forming a sub-committee to draft alternative legislation. All of which, he assured, would be done within WTO guidelines. Brandelli added that his government would prefer a negotiated settlement to the cotton dispute, which he claimed was costing Brazilian industry US\$ 4 billion a year.

Industry Reaction

3. (SBU) Sao Paulo industry and trade associations seem to have been left out of the federal government's decision to consider cross-retaliation. When contacted by Sao Paulo EconOff, they had no knowledge of the details of the government's strategy. Generally speaking, the contacts said the issue is clearly important and that they planned to discuss it at higher levels within their

organizations. Frederico Meira, International Negotiations Supervisor at the Sao Paulo Federation of Industries (FIESP), said any measure that breaks patents and undermines the rule of law is harmful; however, the GoB should work within the WTO panel's decision and protect Brazilian industries that may suffer from unfair US trade practices.

¶4. (SBU) Comment: At this point, it appears that the GoB is strongly considering "cross-retaliation" against U.S. IPR interests if the USG does not comply with the WTO cotton case finding and contests the results, but has not made a final decision. If this strategy proves successful, the GoB may attempt to expand it to combat all USG and EU agricultural subsidies in general, which would also encompass EU IPR interests. Yet, planning is in its infancy and GIPI may well propose competing legislation to that being introduced by Deputy Teixeira leading to a delay in passage of any enabling legislation in Brazil's already lengthy legislative process. End Comment.

¶5. (U) This cable was coordinated with Consulate General Sao Paulo.

Chicola